

IN THE MATTER OF THE ARBITRATION

COUNTY OF DUBUQUE	:	CEO # 877, SECTOR 2
	:	
PUBLIC EMPLOYER		AWARD
	:	
AND	:	
	:	JOHN L. SANDY, ESQUIRE
ASSISTANT DUBUQUE COUNTY	:	
ATTORNEYS ASSOCIATION	:	

I FACTS

This proceeding arises pursuant to the provisions of Sections 19,21 and 22 of the Iowa Public Employment Relations Act, Chapter 20, 2007 Code of Iowa (hereinafter Act) The county of Dubuque (hereinafter County) and the Assistant Dubuque County of Attorney's Association (hereinafter Association) have been unable to agree upon the terms of their collective bargaining agreement for the 2008 fiscal year through their negotiations and mediation On May 14, 2008, the parties submitted their disputes to Fact – Finding On May 14, 2008 Fact Finder Christine Ver Ploeg issued her award

The Association accepted the Fact Finder's Recommendations On June 2, 2008, the County provided notice of its rejection of the Fact-Finders recommendations The parties selected the undersigned to arbitrate their disputes On July 16, 2008 the arbitration was conducted at the Dubuque County Courthouse

Representing the County was Mary Ann Specht, Personnel Director
Representing the Association were Jean Becker, Mark Hostager and Robert Richter,
Assistant Dubuque County Attorneys The parties were provided a full and complete

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opportunity to present evidence and argument in support of their respective positions

Upon conclusion of the evidence the record was closed and the case was deemed under submission to this arbitration

II IMPASSE ITEMS

The parties submitted final offers as required within the appropriate time frames

The following items and the respective positions of each party are as follows

I Wages Article 21

The Association

5 0 % gross wage increase

The County

3 5% gross wage increase

Fact Finder

3 0% gross wage increase

II Wages Article 21

The Association

Increase salary matrix from 8 steps to 10 steps

The County

No modification to salary matrix

Fact Finder

No modification to salary matrix

III Sick Leave Article 11

The Association

The Association proposes to modify paragraph A(4) so that it would read “Sick Leave may be accumulated to a maximum of 1280 hours ”

The County

No modification to Article 11 (A)4 contract language

Fact Finder

No modification to Article 11 (A)4 contract language

IV Sick Leave Article 11

The Association

The Association proposes to modify paragraph D(10) so that it would read, “Upon verified retirement in the Iowa Public Employees Retirement System the County will reimburse full time employees for 250 hours of accrue (d) sick leave at the employee’s hourly rate at that time, provided that the employee has at least 250 hours of accrued sick leave remaining If the employee has less than 250 hours of accrued sick leave, the County will reimburse the employee for any hours at the appropriate hourly rate ”

The County

No modifications to Article 11 (D) 10 contract language

Fact Finder

No modification to Article 11(A)10 contract language

V INSURANCE ARTICLE 13

The Association

a) Maintain current language

The County

Modify Article 13(B)1 to provide “Effective January 1, 2009 there will be a 2% cost share per month across the board” The specific employee contribution will be dependent on the specific health insurance plan’s cost

Fact Finder

Maintain current language

III LAW

Iowa Code Section 20 22 (9) provides The panel of arbitrators shall consider, in addition to any other relevant factors, the following factors

- a Past collective bargaining contracts between the parties including the bargaining that led to such contracts
- b Comparison of wages, hours and conditions of employment of the involved public employees with those of other public employees doing comparable work, giving consideration to the factors peculiar to the area and the classifications involved
- c The interests and welfare of the public, the ability of the public employer to finance economic adjustments and the effect of such adjustments on the normal standard of services
- d The power of the public employer to levy taxes and appropriate funds for the conduct of its operations

It is mandated that all issues set for the above are reviewed in light of the foregoing factors Iowa State Education Association v Public Employment Relations Board

The weight to be given to each of these factors is placed in the discretion of the arbitrator Moravia Community School District v Moravia Education Association

IV FINDINGS OF FACT

A) Background

The County, located along the Mississippi River is in far eastern Iowa at the junction of the Illinois and Wisconsin border, with an estimated population of 92,000. The Association represents nine assistant county attorneys. These employees fall within one of three job classifications. The nature of the type of cases handled by the attorney delineates their classification within the salary matrix, although all attorneys are licensed to practice in all three classifications of legal matters.

The parties are currently operating under and governed by a three year collective bargaining agreement (hereinafter contract), which expired by its terms on June 30, 2007. The areas in dispute in this proceeding appear in the contract articles regarding Wages (Article 21), Sick Leave (Article 11) and Health Insurance (Article 13).

The County employs a total of 363 full time, 93 part time and 18 seasonal or internship employees. The Association at arbitration is but one of the 7 unions which negotiate for County employees rights. Also, there is a group of non-union employees which are compensated for their services to Dubuque County.

Sunnycrest Manor is a nursing home – skilled care facility Dubuque is only one of two counties which still maintains and operates such a facility in the State Historically, each county maintained such facilities Sunnycrest Manor staff is represented by the American Federation of State, County and Municipal Employees Union This Union represents approximately 100 full time employees

The International Brotherhood of Teamsters represents four other of the County's collective bargaining units Three of these are the Secondary Road Department with 38 employees, Courthouse and Library clerical with 50 employees, and the assessor's office with 4 employees The fourth is the sheriff's office management staff which was recently recognized This group has a twelve member organization

Also, Dubuque Sheriff's Department maintains a union staff of 104 They like the Assistant County Attorneys have their own association to negotiate their contract

There are approximately 63 non union employees staffed by the County

These groups represent the internal comparability groups That is, they are only related to the bargaining unit by having the same employer

B) Ability To Pay

The County stipulated at the outset of the proceedings that it was not claiming an inability to pay contention in this proceeding The County concurred that it had the economic resources to fund any of the proposals as set forth in Article II, Impasse Items

C) Comparability Group

The parties agreed at the hearing that for purposes of external comparability under Section 22 (9) (b) of the Act, the proper group for comparison purposes consisted of assistant county attorney wages and benefits for the ten/eleven largest counties in Iowa,

including Dubuque Those counties, their populations and number of assistant county attorneys are set forth below

<u>City</u>	<u>Population</u>	<u># of Assistant</u>
Polk	408,888	51
Linn	201,853	18
Scott	162,621	14
Black Hawk	126,106	15
Johnson	118,038	13
Woodbury	102,972	16
Dubuque	92,384	9
Pottawattamie	90,218	13
Story	80,145	9
Dallas	54,524	4
Clinton	49,782	-

D) History

The Association was originally certified and negotiated their 1988 collective bargaining agreement Since then the parties have enjoyed relatively harmonious labor relations The parties have resorted to fact-findings on three prior occasions This is the first time that the parties have resorted to binding arbitration

E) Other Factors

Association asserts that the Consumer Price Index which is set forth in their exhibits #1-18, Cola/Budget section supports their petition for increased wages The County asserts that the U S City Average Consumer Price Index increase of 2.4 in 2007 and the Social Security COL Adjustment was only 2.3%

V Discussion

At the Outset, it should be noted that the fact finder Ms Christine D Ver Ploeg's decision did a remarkably fine job in detailing the items and the parties position at impasse

By agreement and stipulation of the parties five (5) separate impasse items were submitted to the undersigned

Testimony and exhibits were received concerning a labor management committee which has since been dissipated at the unilateral decision of the Dubuque County Supervisors This committee's existence is clearly a decision at the discretion of the County Other than how the committee's efforts to reduce medical cost to the County from a historic perspective of the health insurance item is its only relevance

The association contends that even though the counties population ranks them as 7th of the top 10 most populous counties in Iowa they handle considerably more work than their larger counterparts Due to their extremely small numbers Dubuque has one assistant county attorney for every 10,265 people This is the third highest ratio for the top 10 comparable counties

The association also contends that based on the comparable counties increases their 5% proposal is the most reasonable

Exhibit 8, Comparables provide

Community	% Increase
*Polk	-
Linn	3 5
Scott	3 0 + 10,000
Black Hawk	3 0
Johnson	3 25
Woodbury	4 5
Pottawattamie	4 0

Story	4 0
Dallas	3 25
Average	3 5

The Association also noted some bitterness from the last bargaining session. They contend that they were assured when agreeing to the last contract's pay increase that no other union would receive more than what they had agreed upon. After settlement, they learned that the Sheriff's Department received a substantially greater pay increase.

Historically, this unit has averaged 3.36% in pay increases since 2002. The association contends that due to their history of substandard increases, it's necessary to award their 5% increase to bring them where they should be as to their comparables.

Lastly, as noted previously, the association contends that the current cost of living figures released on 7-16-08 more than support their request for a 5% pay increase.

The County has changed its position from which it presented fact finding to this hearing. At fact finding, it asserted a 3.0% pay increase. The County contends that it has increased its offer to compensate for the additional burden that its insurance proposal would cost.

That Historically, this association has settled for wage increases consistent with the county's other employees. That to grant a 5% increase would be inconsistent with this history.

The County concedes that they did provide the Sheriff's Union with a deviation from the other county unions' compensation for the last contract. This was due to the Sheriff's office being able to substantiate that as compared to its external comparability.

*Due to flooding, complete documentation was not possible.

group they were lagging behind their counterparts That staff was moving to other counties due to the wage benefit differences

The Association reveals that by percentage its office has the highest number of assistants with 15 or more years of experience That the current matrix which tops out for all three job classifications after 8 years prevents a majority of the association from receiving any additional step increases

Their proposal to increase the matrix by two (2) steps would help solve this inequity That even though staff had over 10 years of experience, they would need to move to step 9 for one year before moving to step 10

The Association asserts that it is this longevity that permits the small size of their office to handle the volume of legal services that are performed

The County asserts that the benefit of having a relatively few steps permits the employee to reach the maximum salary after a relatively short period That to now attempt to add additional steps is not warranted That external comparables do not support their association's proposal That the mean salary earned by the associations members make them some of the best compensated assistant county attorneys in the state

The third and fourth items of contention relates to Article 11, Sick Leave The third item relates to the accumulation of sick leave and the fourth item relates to buy back of the sick leave upon retirement

Current Contract Language permits the accrual of 928 hours of sick leave with up to 150 hours of sick leave being eligible for pay out upon retirement The association is desirous of increasing these numbers Specifically, they desire to increase the accrual bank from 928 to 1280 and the pay out to 250 hours

The Associations main contention as to the accrual of sick leave was premised on internal comparabilities. Specifically those comparisons reveal that the other bargaining units contracts in the county provide

Department	Accrual Hours	Buy Out
Deputy Sheriff	1400	150
Courthouse/Library	950	150
Secondary Roads	950	150
Sunnycrest	928	150
Non-Union	928	150

Clearly there is not uniformity as to the accrual of sick leave. Further, other than Sunnycrest, the Assistant County Attorneys are treated the worst amongst the county's unionized personnel.

Insofar as the buy out language, all units are in uniformity. The Association urges that if employees could retire early based on these funds being available for health care, younger less expensive employees would fill their jobs saving the county money.

The county recognizes that there are inconsistencies on how much sick leave can be accrued. That these amounts have been forged by the fabric of negotiations through the years.

That insofar as the buy back proposal no comparables external or internal would support the Associations proposal. Further, the average cost of the buy back for Assistant

County Attorneys is significantly higher than any other unit per person. The Association counters that this is a professional group with jurisprudence doctorates as a pre-requisite.

The final impasse item concerns Insurance. More ink has been written about this subject than any other in the last decade. Insurance premium increases have dramatically outperformed the cost of living.

Dubuque's insurance language is without a doubt a dinosaur in the current landscape of contract language in this State. This not only includes their external comparability counties but also school districts, cities, and state contracts.

The Association asserted that it has given annual concessions to maintain this "Lexus" benefit. That the association along with other members of the joint labor management committee worked and will work in the future to maintain this cost. That efforts they undertook resulted in the county saving over \$130,000.

The County asserts that its minimal 2% contribution would help bring Dubuque more in line with comparable counties. Comparabilities strongly support the counties position with the exception of internal comparabilities.

The Association reveals that only the Sunnycrest Union has agreed to the 2% insurance contribution. The remainder of the bargaining units have refused to accept this change and both fact finding and arbitration have ensued.

The County also provides other insurance benefits. The County urges that when they employees have a financial responsibility to the cost of the insurance they will be more careful consumers of the products.

VI Award

Due deference should be afforded to fact finder Ms Christine D Ver Ploeg's award. However, at the time Ms Ver Ploeg issued her opinion the County's last offer was 3.0% not 3.5%. Additionally, new evidence was introduced which Ms Ver Ploeg did not have access to. That was the current cost of living.

Conversely to accept the Association's proposal one would have to discount both the history of pay increases and the average increases experienced by their external comparabilities.

It is for these reasons and those previously mentioned in the Discussion Section IV that I hereby award County's proposal of a 3.5% pay increase.

Regarding the Association's matrix increases, no external comparables were advanced in support of their proposal. Fact Finding also declined to support this change.

I am somewhat troubled that a piecemeal modification of salary matrix is being sought at arbitration.

It appears that two thirds of the unit members have more than 15 years experience. A salary matrix expanding to 10 years does not take into consideration these employees. Perhaps a 15 and 20 year matrix would be more palatable for the County and recognize the importance of maintaining long term stability in the office.

Last, sufficient need for this modification is unwarranted at this time. The parties not the arbitrator should craft the matrix.

It is for these reasons and those previously mentioned in the Discussion Section IV that I hereby award County's and Fact Finders proposal that no modification of the salary matrix be ordered.

When addressing the Sick Leave item, it is clear that the Association has some internal comparability to increase their bankable sick leave however not to the extent they advocated Ms Ver Ploeg concluded that “the evidence does not support a non-negotiated in the sick leave accumulation” There was insufficient evidence to support a bank of 1280 hours

It is for these reasons and those previously mentioned in the Discussion Section IV that I hereby award the County’s and Fact finders proposal of no change from current language to chapter 11 (A)4 Sick Leave

Article 11(D)10 relates to the buy back by the County of unused sick leave Once again, there was very little in the way of evidence supporting this modification Neither external nor internal comparables support the Associations proposal Ms Ver Ploeg concurred in her fact-finding

It is for these reasons and these previously mentioned in the Discussion Section IV that I hereby award countys and Fact Finders proposal that no modification of Article 11 (D)10 be ordered

Last but not least is the insurance item The contract has language providing for both single and family coverage at no premium cost to the employee They now seek to place a percentage contribution formula to the contract It is noteworthy that this is the first time in the history of these parties that health insurance coverage is at impasse Ms Ver Ploeg refused to impose this modification as requested by County That a 4 49% increase to the County for insurance premiums was not significant to compel a unilateral change to this benefit I concur

To do otherwise I believe that the proponent of the modification carries a heavy burden

The fact that this is the first contract where this has been brought to arbitration reveals that the parties need more time to attempt an amicable resolution

Insurance contributions are bought and sold at the table not by arbitrator's pen

The exception to this rule is when there is a genuine financial concern A less than double digit increase today does not rise to that concern

It is for these reasons and those previously mentioned in the discussion section that I hereby award the Association and Fact Finders ward that no modification be made to Article 13 of the parties current contract

VII Conclusion

I hereby award the County's proposal for a 3 5% gross wage increase

I hereby award the County and Fact Finders proposal for no change to the salary matrix

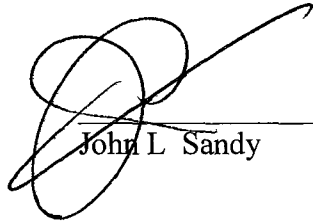
I hereby award the County and Fact Finders proposal maintaining current contract language pertinent to accrual of sick leave

I hereby award the County and Fact Finders proposal maintaining current contract language pertinent to the number of hours which can be converted upon retirement

I hereby award the Association and Fact finder's proposal maintaining current contract language pertinent to health insurance premiums

So Ordered

Respectfully Submitted,



John L. Sandy

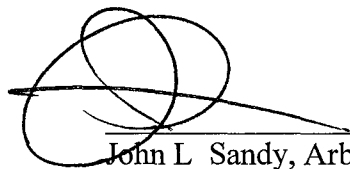
CERTIFICATION OF SERVICE

I certify that on the 25th day of July, 2008, I served the foregoing Award of Arbitrator upon each of the parties in this matter by mailing a copy to them at their respective addresses as shown below

Mary Ann Specht
720 Central Avenue
Dubuque, IA 52001

Mark Hostager
Jean Becker
Robert Richter
720 Central Avenue
Dubuque, IA 52001

I further certify that on the 25th day of July, 2008, I will submit this Award for filing by mailing it to the Iowa Public Employment Relations Board, 510 East 12th St Suite 1B, Des Moines, IA 50319



John L. Sandy, Arbitrator